

EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (QUALIFYING YOUNG PERSONS PARTICIPATING IN RELEVANT TRAINING SCHEMES) (AMENDMENT) REGULATIONS 2017

2017 No. 987

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Work and Pensions (DWP) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument amends provisions in *The Universal Credit Regulations 2013*¹ to allow certain young benefit claimants in receipt of Universal Credit (UC) (whether alone or in combination with an element of contributions-based Jobseeker's Allowance (JSA)) to retain entitlement to benefits while participating in Youth Obligation training that may be on a full-time basis.

2.2 The instrument also amends *The Employment and Support Allowance Regulations 2008*² to ensure that any Qualifying Young Persons claiming income-based Employment and Support Allowance and participating in a traineeship are not prevented from claiming Employment and Support Allowance (ESA) by virtue of the rules relating to receiving education.

2.3 Furthermore, this instrument also updates the existing definition of "traineeship" in *The Universal Credit Regulations 2013*, *The Jobseeker's Allowance Regulations 1996*³ and *The Jobseeker's Allowance Regulations 2013*⁴ to reflect that the Skills Funding Agency was replaced by the Education and Skills Funding Agency from April 2017.

2.4 Finally, this instrument also makes an unrelated amendment to the UC Regulations 2013 to clarify the meaning of better-paid work.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 'Qualifying young persons' provisions in existing regulations prevent claimants under 19 years from receiving benefits if they are in full-time education or training. These provisions apply even if the training in question is designed to help an unemployed

¹ S.I. 2013/376

² S.I. 2008/794

³ S.I. 1996/207

⁴ S.I. 2013/378

young person into work. UC and JSA regulations were changed in 2015 to allow young claimants in England to participate in a Department for Education (DfE) traineeship, as amended by *The Social Security (Traineeships and Qualifying Young Persons) Amendment Regulations 2015*⁵. The instrument accompanying this Explanatory Memorandum applies to a broader range of training for UC claimants participating in the Youth Obligation in Great Britain.

- 4.2 The Youth Obligation applies to UC claimants aged 18 to 21 in ‘Full Service’ areas who are subject to all work-related requirements. Training opportunities are an important part of the support given by DWP and Jobcentre Plus to unemployed young benefit claimants. The amendments brought forward by this instrument allow all young people on the Youth Obligation to access all relevant training schemes where a referral has been agreed by Jobcentre Plus.
- 4.3 This instrument also inserts a definition of “traineeship” and amend qualifying young persons provisions in ESA regulations, so that ESA claimants who are able to seek work will have access to DfE traineeships, in the same manner as jobseekers in receipt of UC or JSA. A traineeship offers basic skills training, vocational training and work experience to young people in England aged 16 to 24.
- 4.4 The core principle remains that full-time students should not be receiving unemployment benefits. The type of training in scope for this instrument is non-advanced education designed to address the basic and employability skills gaps that unemployed young people still have upon leaving education. Non-advanced education is learning at or below A-level or advanced GNVQ, where the learning in these programmes is taught in a school, college or equivalent.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is Great Britain.
- 5.2 The territorial application of this instrument is Great Britain.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1 ‘Qualifying young persons’ rules in UC, JSA and ESA prevent claimants under 19 years from receiving unemployment benefits if they are in full-time education or training. These provisions apply even if the education or training in question is designed to help an unemployed young person into work. The sole existing exception to this rule, introduced into UC and JSA regulations by *The Social Security (Traineeships and Qualifying Young Persons) Amendment Regulations 2015*, relates to DfE traineeships only.
- 7.2 Learners engaged in non-advanced education or training aged between 16 and 19 who enrol before age 19 are treated as qualifying young persons in benefits legislation and

⁵ S.I. 2015/336

not entitled to unemployment benefits in their own right; instead, they are treated as a dependent in a parent or guardian's claim.

- 7.3 This means that young people aged up to 19 in receipt of UC, JSA or ESA are generally not able to undertake full-time training, which for those aged 18 and under is defined as more than 12 hours a week. Young people aged 19 or under who need to claim unemployment benefits are therefore often prevented from improving their skills to enhance their employability.

Qualifying Young Persons and legacy ESA regulations

- 7.4 Regulation 3 amends the qualifying young persons rules in regulations 2(1), 14(2) and 15 of *The Employment and Support Allowance Regulations 2008*, to allow young claimants in receipt of ESA to participate in a traineeship without losing their eligibility for benefit. This instrument also defines “traineeship”, as per the DfE scheme. These amendments therefore align rules in respect in ESA with those for jobseekers in receipt of UC and JSA.

Qualifying Young Persons and the Youth Obligation

- 7.5 DWP's Youth Obligation, launched in April 2017, supports unemployed UC claimants aged 18 to 21 years to find training or employment opportunities. The qualifying young persons provisions in existing UC regulations can present difficulties in situations where Jobcentre Plus Work Coaches decide a full-time adult training course would help a young benefit claimant find work.
- 7.6 Regulation 4 amends qualifying young persons provisions in *The Universal Credit Regulations 2013* to allow UC claimants to retain entitlement to benefits while participating in training as part of the Youth Obligation. This instrument achieves this by inserting a definition of a “relevant training scheme” alongside the existing definition of “traineeship” in regulation 12(1B).
- 7.7 The definition of “relevant training scheme” means a traineeship or a course or scheme which–
- comprises education or training designed to assist a claimant to gain the skills needed to obtain paid work (or more paid work or better-paid work);
 - is attended by a claimant falling within section 22 of the Act as a work preparation requirement or as voluntary work preparation; and
 - the claimant has been referred to by the Secretary of State. In practice, this means the referral to training will be agreed by a Jobcentre Plus adviser, following a conversation with the claimant about the training opportunity.
- 7.8 Regulation 6 is a saving clause to the effect that the provisions relating to a “relevant training scheme” only apply to UC recipients in digital service areas (also known as ‘Full Service’). This refers to those claimants who are claiming through the DWP's internet-based digital UC system, rather than those in earlier UC ‘Live Service’ areas. Live Service claimants are those yet to transfer to the digital Full Service who are still using telephone-based support.

References to the Chief Executive of Education and Skills Funding

- 7.9 Regulation 2 updates the existing definition of “traineeship” in *The Jobseeker's Allowance Regulations 1996* to reflect the fact that the Skills Funding Agency was replaced by the Education and Skills Funding Agency from April 2017.

- 7.10 Regulations 4(2)(b)(ii) and 5 make equivalent amendments to the same definition in *The Universal Credit Regulations 2013* and *The Jobseeker's Allowance Regulations 2013* respectively.

UC regulations and "better-paid work"

- 7.11 Regulation 4(3) makes an unrelated amendment to regulation 87 of *The Universal Credit Regulations 2013* to change "better paid work" to "better-paid work", to clarify that this means work that is better paid.

Consolidation

- 7.12 Informal consolidated text of instruments is available to the public free of charge via the National Archive website legislation.gov.uk .

8. Consultation outcome

- 8.1 No formal consultation has taken place to inform this instrument. Evidence to support this change comes from extensive feedback from Jobcentre Plus Work Coaches, who indicate that existing qualifying young persons rules can present a barrier to participation in training for young people.
- 8.2 DWP presented the proposals for the Regulations to the Social Security Advisory Committee (SSAC) on 26 July 2017. SSAC decided that, under the powers conferred by Section 173(1)(b) of *The Social Security Administration Act 1992*, it did not wish to take the draft regulations on formal reference and laying the instrument may proceed accordingly.

9. Guidance

- 9.1 DWP will incorporate these amendments into operational guidance, thus providing work coaches with a source of information on what the current policy is, how it impacts on their role and the legal implications it includes. Guidance will be available to Jobcentre Work Coaches in advance of the regulations coming into effect on 2 November 2017.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector.
- 10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

- 12.1 DWP and DfE internal monitoring mechanisms include legacy administrative systems, the UC Work Service Platform and the Education and Skills Funding Agency's Individual Learner Record. Regular reports are published on the number of unemployed people participating in training whilst claiming benefits, which are available at: <https://www.gov.uk/government/collections/further-education-for-benefit-claimants> . DWP will continue to monitor these to identify any unintended impact of this instrument.

13. Contact

- 13.1 Stephanie Bennion at the Department for Work and Pensions (Tel: 020 7449 7873 or email: stephanie.bennion@dpw.gsi.gov.uk) can answer any queries regarding the instrument.